ry

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,063	02/06/2002	Nigel A. Browne	500024-A-01-US (Browne)	1202

7590 09/27/2005		EXAMINER
Ryan, Mason & Lewis, LLP		AGDEPPA, HECTOR A
90 Forest Avenue		
Locust Valley, NY 11560	ART UNIT	PAPER NUMBER
	2642	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/072,063	BROWNE ET AL.
	Examiner	Art Unit	
	Hector A. Agdeppa	2642	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Examiner: Hector Agdeppa
571-272-7480

U.S. Patent and Trademark Office
PTOL-303 (Rev. 7-05)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 2

Continuation of 11. does NOT place the application in condition for allowance because:

As to applicant's arguments regarding applicant's definition of a script found in the specification, note that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, as in applicant's previous response, applicant argues that the scripts and the campaigns taught by Crossley are not analogous to the claimed script. However, as applicant points out on page 3 of applicant's latest response, server 12 processes the call records as directed by preselected system scripts and sends a request to digital communication server 14 to dial a telephone number contained within the call record. Therefore, the pacing ratio of Crossley which is applied to a campaign (which contains the numbers to dial, which can be read as communications) affects which campaigns will dial the numbers, and therefore, the preselected scripts are at least indirectly selected to be applied to the communications (which applicant asserts is at least part of the claimed invention as on page 4 of applicant's response).

Also, again, simply because Crossley chooses to name an aspect of the system a script, and another aspect a campaign, does not mean that examiner cannot read campaign(s) of Crossley to be a script because the basis for comparison is how applicant uses the term in the claims. In fact interpreted in another way, Crossley uses the term "system script" whereas applicant uses the term "processing script." Arguably, since the word "script" is used in both terms, there is a difference in the terms' ultimate

definitions and therefore examiner is merely interpreting a campaign as a processing

script as opposed to what Crossley teaches is a system script.

Regardless, examiner has already argued in the previous office action how a

campaign of Crossley reads on how applicant is claiming a script. Take for example

claim 1. A campaign of Crossley can read on the claimed one or more processing

scripts because a campaign is a collection of communications/calls to be made which of

course means processing calls. The numbers to be called then read on the claimed

one or more communications. Finally, a pacing ratio for example, can be used to weight

a campaign in terms of how or when a campaign will be initiated, operated, etc.

As to applicant's assertions that examiner has failed to provide motivation for

combining the cited prior art, stating that the statements are "subjective" and are based

on "unknown authority" note that examiner has not presented the motivations blindly but

has in fact used portions of the actual references to provide motivation and reasoning

for the combination.

AHMAD F. MATAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700